

MINUTES
MALIBU CITY COUNCIL
REGULAR MEETING
NOVEMBER 12, 2002
HUGHES AUDITORIUM
6:30 P.M.

CALL TO ORDER

Mayor Jennings called the meeting to order at 6:47 p.m. He introduced Ron Rocco, Mayor for the day.

Ron Rocco thanked the school for making it possible for him to serve as Mayor for the Day.

ROLL CALL

The following persons were recorded in attendance by the Recording Secretary:

PRESENT: Mayor Jeffrey Jennings, Mayor Pro Tem Ken Kearsley, Councilmembers Sharon Barovsky, Joan House, Andrew Stern and Ron Rocco, Mayor for the Day.

ALSO PRESENT: Katie Lichtig, City Manager; Christi Hogin, City Attorney; Rick Morgan, City Engineer / Acting Public Works Director; Drew Purvis, Planning Director; Lt. Van Herpe, Sheriff's Department; and Lisa Pope, City Clerk

FLAG SALUTE

City Manager Lichtig led the Pledge of Allegiance.

CLOSED SESSION REPORT

City Attorney Hogin reported that the Council met in closed session at 5:30 p.m. to discuss the following items:

Existing litigation per Government Code Section 54956.9 (a):

1. Antario v. City of Malibu
Los Angeles County Superior Court Case No. BC253990
2. Cher v. City of Malibu
Los Angeles County Superior Court Case No. SS10632
3. Chicksands Properties LTD. v. City of Malibu et al.
Los Angeles County Superior Court Case No. BS072081
4. City of Malibu v. California Coastal Commission (Streisand Center Coastal Permit)
Los Angeles County Superior Court Case No. BC230410
5. City of Malibu v. California Coastal Commission (Referendum)
Los Angeles County Superior Court Case No. SS011355
6. City of Malibu v. Santa Monica Mountains Conservancy (Streisand Center)
Ventura County Superior Court Case No. CIV193900

7. Darian v. Accent Builders et al.
United States District Court Case No. 00-10255-FMC(JWJ)
8. Keach v. City of Malibu
Los Angeles County Superior Court Case No. SS009723
9. Marine Forest Society v. California Coastal Commission Case No. 00AS00567 (Sacramento Superior Court) (Amicus)
10. Rubens v. City of Malibu
Los Angeles County Superior Court Case No. SC060331
11. Sprint v. City of Malibu et al
United States District Court Case No. SACV02660 DOC (MLGx)
12. Taxpayers for Livable Communities; Jay Liebig v. City of Malibu
Los Angeles County Superior Court Case No. BC258432
13. Taxpayers for Livable Communities; Jay Liebig II v. City of Malibu
Los Angeles County Superior Court Case No. BS0735585
14. Taxpayers for Livable Communities, Povah, et al. v. City of Malibu
Los Angeles County Superior Court Case No. BS072794

Initiation of Litigation pursuant to Government Code Section 54956.9(c):

15. Number of cases: 2

Personnel matters pursuant to Government Code Section 54957:

16. Public Employee Performance Evaluation
Title: City Treasurer

Conference With Legal Counsel – Anticipated Litigation pursuant to Government Code Section 54956.9(b):

17. Number of Cases: 1

City Attorney Hogin indicated that the Council took no reportable action.

APPROVAL OF AGENDA

MOTION Mayor Pro Tem Kearsley moved and Councilmember Stern seconded a motion to approve the agenda, with Item 4.A. continued to December 9, 2002. The motion carried unanimously.

REPORT ON POSTING OF AGENDA

City Clerk Pope reported that the agenda for the meeting was posted on November 1, 2002, with the amended agenda posted on November 7, 2002.

ITEM 1 CEREMONIAL/PRESENTATIONS

- A. Proclamation Declaring Ron Rocco as Mayor for the Day

Mayor Jennings presented a certificate to Ron Rocco declaring him as Mayor for the Day.

- B. Proclamation Declaring November 24th – 30th, 2002 as Malibu Family Week

Honorary Mayor Rocco read the proclamation declaring November 24th – 30th, 2002 as Malibu Family Week.

Robert Gable accepted the proclamation on behalf of Children of Jesus Christ of Latter Day Saints.

C. Presentation by Hayden Sohm, State Parks, on the Pier Construction and Concession

Hayden Sohm, Malibu Sector Superintendent of State Parks, provided an overview of the Malibu Pier construction and concessionaire. He discussed the State's commitment for a City representative to sit on the concessionaire selection committee.

Councilmember House asked if the wastewater would be tertiary treated. Mr. Sohm indicated that to be correct. Councilmember House asked how many interested concessionaires were represented at the meeting. Mr. Sohm indicated 30-40 interested parties were in attendance. Councilmember House asked when proposals were due. Mr. Sohm indicated February 3, 2003. In response to Councilmember House, Mr. Sohm explained the intent was to create a destination, mid-price restaurant. Councilmember House thanked Mr. Sohm for the presentation. She offered her assistance on the project.

In response to Mayor Pro Tem Kearsley, Mr. Sohm discussed the restaurant capacities. Mayor Pro Tem Kearsley discussed City parking requirements.

Councilmember Barovsky offered her assistance on the Pier project.

Mayor Jennings asked if it was necessary to have a future agenda item regarding appointment to the Pier Concessionaire Committee. City Manager Lichtig indicated the appointment could be made at a future meeting. Mr. Sohm indicated the committee would begin meeting in March 2003.

CONSENSUS

By consensus, the Council directed staff to place an item on a future agenda for appointment to the Pier Concessionaire Committee.

ITEM 2A. PUBLIC COMMENTS

Jay Griffin expressed concern regarding the film permit issued to Dreamworks with parking area at Busch and Merritt Drive.

Hiro Kotchounian and William Cacciatore deferred their time to Mr. Robert Briskin.

Robert Briskin, Director of Malibu Country Estates HOA, urged the Council to restrict overnight parking in their neighborhood. He discussed the requirement for 75% of homeowners to approve the proposed restriction. He requested the Council refer the matter to the Public Safety Commission without the necessary 75% signatures.

Lyle Slater deferred his time to Shirley Slater.

Shirley Slater discussed the film permit issued to Dreamworks and expressed her frustration with the filming activities. She indicated the film activities created dust and mud on the streets. She urged the Council to review the filming process in Malibu. She provided copies of Beverly Hills' film ordinance and permits for the Dreamworks filming.

Norm Haynie discussed his construction activities at which construction operations started early. He apologized to the citizens of Malibu for allowing construction to start prior to 7:00 a.m. and indicated he had ordered his crews to not start prior to 7:00 a.m.

B. COUNCIL COMMENTS

Councilmember Stern asked whether the 75% rule was waived for Malibu Country Estates. City Manager Lichtig explained that Council direction was to proceed through the process. She stated the HOA board was requesting they not be required to go through the petition process. Councilmember Stern indicated support for waiver of the petition process. He stated he had visited the filming site which appeared to be a burden to the neighbors.

Councilmember House asked Ms. Nilsson to discuss the film permit issued to Dreamworks. Ms. Nilsson explained the provisions of the Dreamworks Pictures film permit. She explained that the staging area is owned by the Santa Monica – Malibu School District which allowed the equipment on the site. She stated she visited the staging area and could see how it could interfere with the Slater's. She suggested a Council subcommittee review the film ordinance. She requested staff gather information from the affected neighbors to address their concerns. She discussed the petition requirements for neighborhood parking restrictions. She requested the Council discuss the Department of Transportation letter regarding right to vacate. City Manager Lichtig indicated staff was evaluating the matter and would report back to the Council. Councilmember House indicated she attended a Wetland conference. She announced the Administration and Finance Subcommittee had discussed the City Treasurer position.

CONSENSUS

By consensus, the Council directed staff to provide information to the Council regarding the street vacation.

Mayor Pro Tem Kearsley welcomed Mr. Rocco. He stated he visited the film site and asked if petition signers were aware of the amount of equipment that would be on the

site. He discussed the City's film ordinance and policy. He requested the Commission review the ordinance and policy. He discussed the concerns expressed by Malibu Country Estates and suggested petition signatures be obtained.

Councilmember Barovsky discussed residents' concerns with filming. She suggested a Council ad hoc committee be established to work with staff and the community to refashion the film ordinance and policy. She asked Mr. Briskin to explain the vote taken on Malibu Country Estates parking restrictions. Mr. Briskin indicated 50 members attended the meeting in April 2002 and those present indicated support for the parking restriction. Councilmember Barovsky suggested petition signatures be obtained and the established process followed. Mr. Briskin indicated it was impossible to obtain 75% affirmative votes.

Mr. Rocco empathized with the residents affected by the film permit. He indicated support for the Malibu Country Estates HOA.

Mayor Jennings stated he attended the Chamber of Commerce Veterans Day Celebration on Monday, November 11, 2002. He reminded residents of the Hazardous Waste Disposal event on December 7th, behind the old city hall building. He announced the Wastewater Control Issues meeting to be held at Dukes on November 13, 2002, 2:00 – 4:00 p.m. He discussed the Interim Zoning Ordinance and Code Enforcement Revisions Subcommittee meeting on November 13, 2002, at which the hillside management ordinance and basements were discussed. He discussed the Dreamworks film permit and concerns with light and noise from generators. He asked if there were time restrictions for lights and generators. Ms. Nilsson indicated the signature sheet indicated filming would occur 24 hours per day. She stated notification was issued of specific filming times. Mayor Jennings discussed problems with waivers and stated the Council direction was to allow 14 days of filming per 365 days. City Manager Lichtig explained that the hours of operation required waiver signatures. Mayor Jennings stated filming (cameras rolling) was limited to 14 days. He stated it was necessary to consider ancillary activities. He stated he was not aware of the proposed 24-hour operation of the generator. He stated activity needed to be cut off at some time to protect the neighbors. He discussed parking issues created by the film shoot. He stated there were problems with enforcement of the conditions of the film permits. He stated he did not think there was an existing commission or committee to handle issue. He indicated support for appointing an ad hoc committee.

CONSENSUS

By consensus, the Council appointed an ad hoc committee of Councilmember Stern and Councilmember Barovsky to work with staff and members of the committee to further refine the City's film permit ordinance and policy and guidelines.

Mayor Jennings asked if Malibu County Estates HOA residents had contacted the City. City Manager Lichtig stated she received one phone call and one letter opposing the proposed parking restrictions.

Mayor Jennings corrected his previous announced and indicated the Wastewater meeting would be held at Dukes on November 20, 2002, from 2:30 p.m. – 4:00 p.m.

City Manager Lichtig suggested the Council either waive the parking restriction process or require petition signatures to be obtained. Mayor Jennings discussed the 75% requirement. City Manager Lichtig explained it was a Council policy. Mayor Jennings discussed the problem with obtaining signatures of absent property owners or rental properties.

Councilmember Barovsky stated the HOA should get as many signatures as possible and then submit the matter to the Public Safety Commission.

Mayor Jennings requested clarification on the process. City Manager Lichtig explained that petitions would be submitted to the Public Works Department who would generate a staff report for the Public Safety Commission. Mayor Jennings suggested obtaining as many signatures as possible on the petition. Councilmember Barovsky asked if renters could sign the petition. City Manager Lichtig explained that property owners would be notified and signatures may be obtained from renters if the petition is circulated door to door. She suggested occupants have a voice in decision being that the parking restriction would not create a financial burden to the property owner.

ITEM 3 CONSENT CALENDAR

MOTION Mayor Pro Tem Kearsley moved and Councilmember Barovsky seconded a motion to approve the Consent Calendar. The motion carried unanimously.

The Consent Calendar consisted of the following items:

A. Previously Discussed Items

B. New Items

1. Waive further reading

Staff recommendation: After the City Attorney has read the title, waive full reading of ordinances considered on this agenda for introduction on first reading and/or second reading and adoption.

2. Approve Warrants

Staff recommendation: To allow and approve warrant demand numbers 20436 through 20555 listed on the register from the General Fund and direct the City Treasurer to pay out the funds to each of the claimants listed in Warrant Register No. 272 in the amount of the warrant appearing opposite their names, for the purposes stated on the respective demands, including payroll checks, in a total amount of \$294,009.00 including ADP payroll voucher numbers 430001-430053.

3. Re-affirm the State of Local Emergency Declared by the Director of Emergency Services on March 9, 2001 relating to the Landslide Road Failure at Corral Canyon
Staff recommendation: Re-affirm the State of Local Emergency by minute order.
4. Approval of Minutes
Staff recommendation: Approve City Council meeting minutes for the regular meeting held on October 14, 2002.
5. Traffic Information Emergency Radio – Memorandum of Understanding with Caltrans
Staff recommendation: Authorize the City Manager to execute a Memorandum of Understanding (MOU) to enter into a Joint Operating Agreement with Caltrans to provide shared use of the City's Traffic Information and Emergency Radio (TIER) system and the Caltrans Highway Advisory Radio (HAR) system.
6. Morning View Drive Walkway, Phase II – Award of Construction Contract
Staff recommendation: Authorize the City Manager to execute a contract with Timothy J. Ferrie of Thousand Oaks, California in the amount of \$161,240.00 for construction of the Morning View Drive Walkway (Phase II).
7. Professional Services Agreement (Compliance Biology)
Staff recommendation: Authorize the City Manager to execute an agreement with David Crawford (DBA Compliance Biology) as the City's Biologist.

ITEM 4 ORDINANCES AND PUBLIC HEARINGS

- A. Appeal No. 02-006 – An Appeal of the Planning Commission's Resolution No. 02-17 Conditionally Approving Plot Plan Review 00-129 and Site Plan Review 00-083 for the Construction of a New Two-Story Single-Family Bluff-Top Residence Above the Base 18-feet in Height. Appellant: Patt Healy and/or Malibu Coalition for Slow Growth; Applicant: Barsocchini & Associates; Owner: Arthur and Kimberly Silver; Location: 24950 Pacific Coast Highway (CONTINUED FROM OCTOBER 28, 2002)
Staff recommendation: Continue to the City Council regularly scheduled meeting of December 9, 2002.

This item was continued upon approval of the agenda.

ITEM 5 OLD BUSINESS

- A. Local Coastal Program (LCP) Application – Strategy for Developing a Comprehensive Local Coastal Program

Staff recommendation: Consider the strategy and timeline for reviewing and preparing LCP application.

Planning Director Purvis presented the staff report.

MOTION Councilmember Barovsky moved and Mayor Pro Tem Kearsley seconded a motion to approve the proposed timeline. The motion carried unanimously.

Councilmember House asked the land use designations for the vacant properties in the Civic Center. Planning Director Purvis stated the uses were community commercial and community general. He explained the allowable floor area ratios. Councilmember House stated the primary reason she brought it up for review was because she felt there was too much commercially zoned property. She asked the next step. Planning Director Purvis explained that changing the land use designation would require a General Plan Land Use Map and Zoning Map Amendment, then reviewed by IZORACES, the Planning Commission then the City Council. Councilmember House indicated support for reviewing potential zone changes.

Mayor Pro Tem Kearsley questioned how the figure was obtained for the visitor serving percent. Planning Director Purvis explained it was a mathematical calculation based on existing uses, determined by a review of the uses currently in place. City Manager Lichtig stated it was based on best professional judgment. Mayor Pro Tem Kearsley stated the visitor serving percentages were too low. City Manager Lichtig stated the document was initially prepared as part of an exhibit to the Coastal Commissioners and utilized conservative assumptions. Mayor Pro Tem Kearsley asked how the Coastal Commission determined 50 acres of visitor serving. City Manager Lichtig explained that the LCP did not delineate, and adopted version had removed 50 acre requirement.

Councilmember Barovsky stated well over 50% of residents of Malibu Vineyard Church were not Malibu residents.

City Attorney Hogin explained that a resolution of intent could be adopted, notice provided of a proposed Zone Text Amendment and Map Amendment, then reviewed by the Planning Commission and back to the Council or the issue could be bundled in with discussions of LCP amendments.

MOTION Councilmember Barovsky moved and Councilmember House seconded a motion to direct staff to bring forward possibilities of rezoning of Civic Center properties during LCP discussions. The motion carried unanimously.

B. Options for Advocacy, Representation and a Communications Strategy Regarding the Local Coastal Program, Bluffs Park, and Other Matters

Staff recommendation: Consider options regarding advocacy, representation and a communications strategy of the City concerning the Local Coastal Program, Bluffs Park and other pressing matters.

City Manager Lichtig presented the staff report.

MOTION Councilmember Stern moved and Mayor Pro Tem Kearsley seconded a motion to approve the employment agreement with Susan McCabe effective January 1, 2003 and to approve the proposed Request for Qualifications for a communications strategy.

AMENDMENT

Councilmember Barovsky moved to amend the motion to have Councilmember Barovsky and Councilmember Stern participate in the process of selecting a communications liaison. Councilmember Stern and Mayor Pro Tem Kearsley accepted the amendment.

The amended motion carried unanimously.

ITEM 6 NEW BUSINESS

ITEM 7 COUNCIL ITEMS

ADJOURN At 8:47 p.m., Mayor Pro Tem Kearsley moved and Councilmember Barovsky seconded a motion to adjourn. The motion carried unanimously.

Approved and adopted by the City Council of
the City of Malibu on January 27, 2003.

JEFFREY D. JENNINGS, Mayor

ATTEST:

LISA POPE, City Clerk
(seal)